IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 17425 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHALABHAI VALABHAI RABARI - Petitioner(s)

Versus

CHAIRMAN - Respondent(s)

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Appearance :
MR BS BRAHMBHATT for Petitioner(s) : 1,
RULE NOT RECD BACK for Respondent(s) : 1,
MR AD OZA for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 30/11/2005

ORAL JUDGMENT

1.The petitioner in this petitioner has challenged the suspension order passed on 15-5-1996.

2.Upon hearing Mr. Brahmbhatt, learned advocate for the petitioner and Mr. Dave for Mr. Oza for the respondent

– board. It appears that the departmental inquiry is pending and the same is pertaining to serious charge of misappropriation. The grievance raised on behalf of the petitioner by Mr. Brahmbhatt is that for a period of about 9 years, the departmental proceedings are not concluded and as a result thereof, the petitioner is continued under suspension and therefore, this court may examine the legality and validity of the suspension order.

3. As such when the departmental proceedings are initiated pertaining to major penalty, it cannot be said that the order of suspension was not justified. However, any employee would be entitled to the conclusion of the departmental inquiry within reasonable time and if, there is a delay on the part of the disciplinary authority in concluding the departmental inquiry, which cannot be attributed to the employee concerned, he may validly make grievance for revocation of the suspension order if, otherwise permissible in accordance with law and as per the prevailing policy of the Government and if the court is satisfied that the revocation of the suspension of the employee is not to adversely affect the administration, the court may consider the matter for passing suitable direction. In my view, that stage has uptil now not reached and the interest of justice

would be reached if, the departmental inquiry is directed to be completed within a period of 3 months from today and in view of the said direction, the prayer of the petitioner for directing the respondent to revoke the suspension order is not entertained at this stage. It may be recorded that the petitioner has undertaken to cooperate with the departmental proceedings and the respondent shall ensure that the proceedings are completed within a period of 3 months from today. Hence disposed of accordingly. Liberty to the petitioner to apply in case if, the departmental proceedings are not concluded on account of the delay which cannot be attributed to the petitioner. Subject to the aforesaid observations and directions, rule discharged. No order as to costs.

(JAYANT PATEL,J)

shekhar/-